1:Spier E-4,5 (1925-1926) 1930 NR 10 Klamath NR 10
(ca. 1860-1900)

Chiefs' Functions

The functions of chiefs both to the northwest and in central California differed sharply from those of the Klamath. 171* 622

On the Northwest Coast proper the authority of a chief was by no means absolute. The commoners were subject to his admonition rather than his will, his direct authority extending hardly beyond his immediate following. Such gifts as they made him were free-will offerings, large as they were, dictated solely by traditional sentiment. While these include almost all articles of food among the Kwakiutl, to the south, as among the Klallam and Snohomish, they were rather such things as were difficult to procure, such as the products of the hunt, and were no more than were given to any respected old man.[870]

The situation on the Columbia river and in coastal Washington and Oregon was different. These chiefs had real authority. Wishram, Quinault,[871] and Coos chiefs were obeyed, their authority being challenged only by the rich. Commoners among Wishram and Coos gave largely from their gains and in return could expect the aid of their chiefs when in distress. The chiefs sat as judges in cases of witchcraft and murder, assessing heavy fines and ordering the culprit killed if he defaulted. Such fines were not theirs but went to the family of the murdered man. They also paid such fines for their followers. What little is known of the Tillamook suggests an identical situation. [692] [682]

This judicial function, with its meting of fines and punishment, made its appearance among the Klamath by way of the Dalles early in the middle of the last century.

Northwestern California shows considerable similarity to western Oregon, but the authority of rich men was slight in comparison and they did not sit as judges. Among the Hupa, Shasta, and presumably their neighbors, they were obeyed because they gave of their store in times of scarcity and paid fines for followers who were in difficulties. The headmen in more southerly Californian groups exercised more formal authority, as the Yuki and Patwin headmen, who may have made decisions of war and directed town activities. In northeastern California (Maidu, Achomawi, Atsugewi) chiefs were much like

[870] Boas, Ethnology of the Kwakiutl, 1333 f.; Gunther, Klallam Ethnography, 204; Haeberlin-Gunther, Ethnographische Notizen, 38.
[871] Olson, Quinault field notes, 1926.

3:Stern E-4,5 (1949-1957) 1965 NR 10 Klamath NR 10

[Klamath Reservation]

time had come, he summoned his people "to receive his solemn admonishments err [sic] his spirit take flight." Soon recovering, he voiced to the Agency farmer, S. D. Whitemore, the suspicion that the shaman who had cured him, and whose professional charges had stripped him of all his effects, had been in league with the subchiefs to bring about his death; and he requested that the shaman be imprisoned by the military. Later events made it clear that Monchnkasgitk had been a leader in the conspiracy, plotting to take the place of the old chief. Thereupon, Whitemore, then in charge of the Agency, called a council, at which he "stated that it will be highly necessary to consult their, and the government agent, or the change could not be regonized [sic]. . . . I learned that after a lengthy consultation with the indians has [sic] become impressed with the belief that Mosen Kasket and his band have no hostile intentions."[7]

With Agency backing, Lileks once more was restored to a position of relative authority, but his recourse to outside support caused his personal prestige to decline. He thus had to resort increasingly to formal instruments to bolster his power and to implement the changes he sought. When one Spokane Ike slew his child in Jacksonville, Lileks asked that the Agent order all Indians back upon the reservation. Spokane Ike was tried by the Indian court, Lileks presiding, and was fined fifty dollars.

Lileks took readily to the court, and Whitemore reported, "The indians are holding court dayly [sic]. I am not informed of the nature of their cases." O. C. Applegate described one session thus: "A few days ago the Grand Court of Klamath set, Chief LaLakes presiding, and many men were convicted of many crimes. One in particular had stolen a number of women, 20 mink skins and otherwise trampeled [sic] on the rights of his people, he now wears shackles and a heavy log chain and chops wood for La Lakes."[8]

The head chief was by no means an advocate of indiscriminate change. He favored inhumation of the dead, which he had witnessed among the whites in his travels to Jacksonville, Yreka, and The Dalles, over the native practice of cremation; and about 1868 he secured its adoption.[9] On the other hand, when the proposal was made in 1865 to liberate the slaves, Lileks was prominent in voicing his displeasure, undoubtedly backed by

3:Stern E-4,5 (1949-1957) 1965 NR 10 Klamath NR 10

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As for the deposed Monchnkasgitk, his place was promptly filled by the election of one "Barcley." Despite the rebuff, Monchnkasgitk rose again in time to the position of subchief at Yainax, where he came to be known as Moses Brown.[17]

The major election had removed from immediate power one who had obstructed Agency-sponsored reforms, but had left the membership of the lesser chieftaincies intact. It is clear that administration policy held that representation by a chief was adequate to secure the interests of a band. Thus, in 1871, when John Meacham found the lot of the slaves little improved his remedy was to authorize them to elect a chief "to represent them in the councils and courts of the tribes."[18] In the political order thus established, the chiefs had been displaced from an executive role to constitute a court, while a sheriff, chosen from among the Indians, together with constables, one per chief, were to maintain order. Chiefs, somewhat extralegally, soon began to assume magisterial functions.

It took some time to make the court aware of the bounds within which it ought to operate. John Meacham noted in his charges "an excessive disposition to go to law," and remarked, "I have counciled [sic] the board of chiefs against this, especially against making arrests for trifling offenses or for *no* offence at all, advising them that the object of the law is to *protect* the people and not to *oppress* them."[19] Soon thereafter, he reduced the court to a membership of only seven chiefs and set its sessions at monthly intervals.[20]

As outlined by Dave Hill, one of the members of the court, the list of offenses combined crimes against the person (murder, adultery, stealing, fornication, witchcraft, and fighting), those against property (arson), together with what can only be considered redefinitions of customary procedure. Thus, cremation of the dead was enjoined and the license permitted a chief in dealing with his followers was severely circumscribed. Marriages were to be confirmed before the principal chief, who was to receive a fee; the bride price was not to be returned on the desertion of the husband; while the court might order the separation of an irreconcilable couple. Monogamy alone was permissible.[21]

Thus, not only were the chiefs given new and different powers,

3:Stern E-4,5 (1949-1957) 1965 NR 10 Klamath NR 10

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but they were made the arbiters for the acceptance by their fellows of changes in customary practice. Their position was buttressed by the procedure at first adopted of issuing annuities through them, of loaning equipment to the chiefs for the use of their followers, of building houses for them, and of giving them priority when breaking ground for planting.[22]

Even as an embodiment of indirect rule, however, the early reservation courts knew the intervention of the Agents. Meacham records that, "Captain Knapp forbade thier [sic] Doctors to practice and shackeled [sic] them for attempting to persist in the same."[23] And Meacham himself, having requested the commander of Fort Klamath to arrest and confine one Link River Doctor for the same offense, proceeded to try him during the next session of the court and sentenced him to four months' imprisonment at Fort Klamath.[24] Dyar similarly set sentence for Pitt River Dick, convicted of assaulting another Indian with a knife.[25]

The degree to which the Agency had set itself up to confirm the chiefs, and thus to constitute the supreme authority, is shown by the commission earlier awarded to Allen David, which runs,

> The Bearer
>
> for his intelligence, loyalty and long continued good behavior, is hereby appointed during good conduct Chief of the Chucklolum division of the Klamath Tribe. He will exercise authority over the said people subject to the will of the High Chief of the Klamath Nation and also of the proper authorities of the United States.
>
> Witness
> O. C. Applegate Intr.
> Saml. D. Whitmore
> Acting Farmer
>
> Signed at the Klamath
> Agency Sept 28th 1867
> L. Applegate
> U. S. Indn Sub Agent

Note especially that the division referred to does not correspond with any of the Klamath tribelets. Thus a regrouping was either being recognized or, more probably, instigated by the Agency.[26]

Despite their increasing control, Agents continued to chafe under the independence still exercised by the chiefs. As Commissary Meacham chose to phrase it, "In thier [sic] present condition it is probably best that each tribe should be represented by thier hereditary chiefs, but I am satisfied that the time is not

3:Stern E-4,5 (1949-1957) 1965 NR 10 Klamath NR 10

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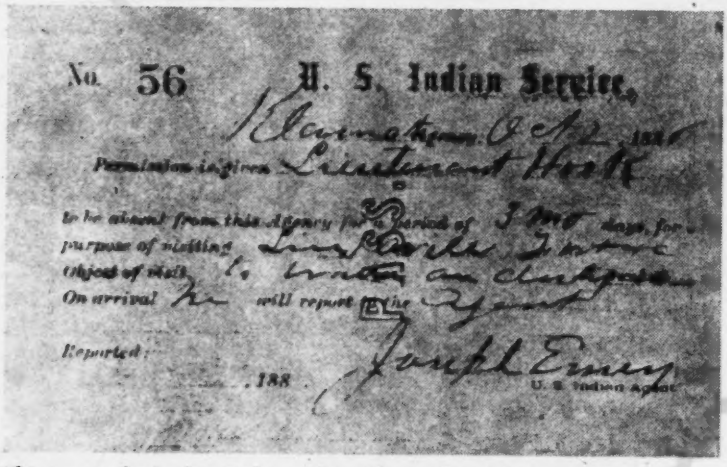
appointed sergeants of the force. "This," he added, "would give these chiefs something to do & a support. They would be interested in watching their people and in keeping good order."[61] The move also would counter the opposition to the police among the chiefs themselves, led by Allen David.

Once the force was authorized, Nickerson became aware of its peculiar jurisdictional limitations. When he sent the police



This pass authorized an Indian police officer to leave the reservation for three months while on duty in the Linkville area. 1886.

to Linkville to round up Indians absent without passes and to pursue Indian horse thieves, he was informed that they had no power to make arrests off the reservation: the United States authorities must be notified to act. Yet when the turbulent Spokane Ike shot Skookum Doctor and fled, to be captured by the Indian police near Prineville, the U.S. District Attorney declined jurisdiction, saying that it lay either with the state courts or with the tribe. Accordingly, "the chiefs in council, acting as a grand jury, accused Spokane Ike of the crime of murder. A court was held, the Indian Agent presiding. A jury, of twelve of the most intelligent Indians of the tribe was selected. . . ." Both by the testimony of a witness and by his own statement the defendant was found guilty of murder in the first degree. Upon further

3:Stern E-4,5 (1949-1957) 1965 NR 10 Klamath NR 10

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Upon further instructions from Washington, he was publicly hanged. Struck by the solemnity of the proceedings, Nickerson reported, "Fully half the people of the nation was [sic] present. The order and behavior were admirable. The arrangements and execution of the plans were in the highest degree creditable to the Indians having charge of the same."[62]

The following year, a parsimonious Congress made necessary a reduction in pay. "They are all poor men," exclaimed Nickerson, "and can not support their families on one ration and 5 dollars per month. Young men have not the experience needed & do not command the respect of the tribe & nation." He searched about for alternatives to help them eke out an existence.[63] Opportunely, there arrived a copy of *Rules Governing the Court of Indian Offenses* which, pronounced Nickerson, would "work a radical change in the government of this people."

He suggested that Blow and Hill "loyal, intelligent, and progressive Christian men" be appointed as judges, to serve concurrently as policemen. To them he proposed to add another, Jesse Kirk, a pupil at the Agency school and a carpenter's apprentice, to be both a member of the force and a judge. Of the three, he wrote, "David Hill will make the most competent man for presiding Judge. If necessary I will nominate him for Captain and Blowe [sic] for Lieutenant of Police. Otherwise I would prefer that they remain as they [are] as Blowe is head chief of the nation."[64]

The triple role of Hill and Blow made it difficult to delimit their judicial functions. Wrote Nickerson in 1886:

> I was obliged to be quite positive and firm in the exercise of my authority as an agent, before they came to understand that they were not independent in the performance of their duties as Judges. It also required some time to convince them that they were not to become prosecutors of supposed criminals, and that they were not to form and express an opinion in advance of hearing all the testimony, and then not until they had taken time to deliberate together. I am satisfied that we have no better material for judges than those that are now acting in that capacity, and yet they are strongly opinionated, and are making but slow progress in the right direction."

The police force, meanwhile, had been distributed so that four

3:Stern E-4,5 (1949-1957) 1965 NR 10 Klamath NR 10

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served at the Agency and three at Yainax, with an additional policeman at each school to bring in new scholars, recapture runaways, and oversee the prisoners. Dave Hill presided over the police building at the Agency, with quarters for his family and cells for the prisoners.[66] On occasion, policemen accompanied labor parties off the reservation and worked alongside them for pay in addition to their salaries; and they served as escort to the freighting runs to Ashland and Jacksonville and the late winter expeditions to the Lost River fisheries. They were a considerable power in maintaining order, even apprehending deserters from Fort Klamath; and Emery used them effectively in imposing his agricultural policy upon his wards.

The police, however, at times found themselves at odds with the very laws and regulations they were employed to uphold. Among those involved in the illicit traffic in reservation timber, as already described, were several members of the police, together with other Agency employees, and three chiefs: Monchnkasgitk, Allen David, and David Hill. The latter, in 1888, learned at first hand the impersonal character of authority when, disturbed by some ruling concerning his son, he approached the clerk who was acting as Agent in the absence of Emery, in what that worthy described as "an angry, insulting, insolent, defiant, threatening, warlike and rebellious manner." He was arrested—resisting the while—and locked in the guardhouse; and the clerk requested that he be kept in solitary confinement for one week, or until the clerk had returned from Yainax.[67]

Emery apparently conceived that too much power was concentrated in a few hands, for later that year he reorganized the court, with the observation that "in the very nature of things the *Judge* should not be the *Sheriff*." His appointments were drawn from a new generation of leaders: William Crain, William Crawford, and Benjamin Butler.

> They are intelligent men [he observed], [and] can read and write and speak accurately the English language. One of them is a graduate of the Chemawa Indian School, another educated at the Klamath School and the third one is the best informed man on the reservation.
>
> Court is held once a quarter at Yainax—40 miles from here and twice a quarter at the Agency.

3:Stern E-4,5 (1949-1957) 1965 NR 10 Klamath NR 10

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*657 *648 • 692

> A large number of Indian offences come before this Court for trial, consisting mainly of family quarrels, disputes about the ownership of property and acts of licentiousness."

With the accidental death of Crain, Jesse Kirk was appointed in his stead.[69]

Thus, within a generation the administration had replaced the popular leaders with those among them who were Agency employees, and in turn had supplanted them with the products of its schools. Legally constituted authority was administered through the Agency, at first through a customary court of chiefs and later through a Court of Indian Offenses. The Indian police, who took their orders directly from the Agent, were satisfactory to him as the instrument of his hand. Not so the courts, which tended instead to constitute seats of power alternative to that of the Agent. The result was to be that Agents tended to strengthen the police while circumscribing the functions of the courts. [625]

*657 *648 622 571

Meanwhile, beyond the administrative structure thrived an unacknowledged informal leadership, based as in former days upon wealth and accomplishment. Unlike that of the Agency, it was not restricted in position nor limited narrowly in function. This was a leadership in which employees could also participate; and it was presently to see such diverse men as the old chiefs, Monchnkasgitk, Henry Blow, and Allen David, make cause with Dave Hill, and he with young Jesse Kirk, and he in turn with Jeff Riddle, son of Frank Riddle and Winema, the heroine of the Modoc War, and with Henry Jackson, the wealthy exslave. In this sense at least E. L. Applegate was right when he observed:

[179] [178] [101]

> The tribal distinction among the Indians on this Reservation is practically disregarded by the Indians, and the ancient prejudices are rapidly fading away. The general name of Klamath People seems to be superseding all other distinctions."

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Of all the societal relationships, the government sought directly[103] to change only those within the family. It was clear that a nation that was soon to impose upon the Mormons the American, and not the Biblical family, would permit no special marital practices among the Indians. Polygamy was banned, although not retroactively for unions such as those of Allen David and Monchnkasgitk, which had been contracted prior to January 1, 1870. Some leaders themselves appear to have advocated the change in a desire to emulate whites. In 1877, Gatschet noted that there were still two or three polygamous men.[26] Since polygamy had been a mark of the affluent, the ban, like the emancipation of the slaves that preceded it, served to erode the status of the traditional chiefs.

An effort was also made to place under the authority of the court of chiefs certain relationships which had formerly been regulated privately between the families or individuals concerned. In the legal code instituted when the court was established, the consecration of marriage was made the function of the head chief, to whom the groom was to pay a fee of five, three, or two dollars or the same amount in horses, graduated according to his means. It was again the chiefs who punished fornication and polygamy and performed divorce.[27] The traditional ritual of marriage still was being practiced by some families in the 1890's[28] but the gift exchanges between the families concerned which set a public seal on the union were superseded, and the controls exerted by the family over the couple were thereby diminished. The effects of these and other changes were recognized by Gatschet. "Matrimonial reverses . . . among the Klamath [he declared] . . are one of the unavoidable consequences of the gradual emancipation of the females from the former rule of their brutal husbands through the advent of the whites, and also of the obnoxious and corrupting neighborhood of the soldiers at Fort Klamath."[29]

With time, the seal upon marriage came to be set by the Methodist church and its ethics in turn permitted the independent of spirit to flout tradition. One woman recalled that upon the death of her husband his family proposed that she wed his brother in customary manner, but she refused out of regard for the memory of her husband and the sanctity of the bond of their marriage in the church.

3:Stern E-4,5 (1949-1957) 1965 NR10 Klamath NR10

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was transacted by Jack Palmer, Harrison Brown, Ike Mose, and Abraham Charley. A committee of ten men submitted a report of the findings of the council, presenting the proadministration viewpoint and requesting "that these men [Kirk and party] be not allowed to do any more business pertaining to the tribe without tribal authority."[74]

Jesse Kirk and his adherents did not participate in the "loyal" council. After the scene in Evans' office, Kirk and Jackson had consulted with Mills in Klamath Falls. In the company of the attorney they then returned to demand the petition. Evans refused, informing Mills that "no attorney had any right to interfere in tribal affairs without permission from the Interior Department." The three retired and with others of the faction drew up another petition which they forwarded to Washington.[75]

In his letter of transmittal to the firm of Dudley and Michener in the capital, who were in turn to present the matter to the Commissioner, Mills shed a new perspective upon matters. After reviewing some of the earlier developments, he turned to the investigations of Inspector Holland, which, as he said,

> proceeded along smothly [sic] enough until the questions of money and property became the subject of inquiry when it developed that during the last four years a system of collecting money, stock, lumber and other property had been adopted; it seems that this was done by first having the "Indian" court (a sort of disciplinary tribunal which has been authorized or rather sanctioned by the department) impose a penalty or punishment and then allow the indian defendant to pay in cash or such other property as he might chance to have and notwithstanding that such court has no such authority to impose fine or collect money in that way. . . . During the time of the investigation some of the fines which had been collected one or two years were paid back to the defendants. . . . It is conclusive proof had there not been an illegal practice . . . no such returns would have been made. . . .

Although Holland had inquired into only one case, there had been several. Jesse Kirk had requested of George Loosley, chief of police, the list of fines imposed, but was denied it. Finally, Loosley consented to divulge the sum, amounting to $2,651 collected over a four-year period.

At the center of the case, claimed Mills, was Applegate, related through marriage to three brothers of the Loosley family. Two

3:Stern E-4,5 (1949-1957) 1965 NR 10 Klamath NR 10

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Indian officer, both at Beatty. Thereupon, Chiloquin's marshal and his deputy also resigned, asserting that enforcement under those conditions was too difficult—and too dangerous, to boot. The county, which had already barred tribal members from the county jail, now took the position that, short of a government request, its courts would try no more Indian cases. Crawford countered with a proposal that the Court of Indian Offenses be reinstituted, while other leaders fell back upon that time-honored solution, the United States cavalry. Several months passed before funds were found to restore the reservation staff to normal strength.[4]

Within the interlocking jurisdictions of the reservation and the reservation community, Klamath came to play out the role of citizen as a voter, a taxpayer, and the object of legal control. In small towns such as Chiloquin and Sprague River, relationships were primary in character, dominated by face-to-face relationships. Within the special environment of the reservation, with the vast potential of its unexploited resources, something of a western frontier tradition was preserved, with emphasis placed upon individualism and a high premium set upon voluntaristic action in concerting effort.

These conditions were nowhere better evident than in Beatty. In this little community, with fewer than one hundred fifty members, leadership was furnished by a few individuals and action was highly informal. Perhaps the most influential person was a white storekeeper, a resident in the community for almost four decades, who had on occasion donated land and cash for worthy causes, who presided over a credit system, and who was much respected by the older tribal members. Among the latter, a leading spirit was the widow of his brother-in-law, who could be counted upon to act with him. His store was a frequent gathering place and the debating ground of the "hot stove league," where tribal politicians from the Upper End were often to be found. Another local leader was a young white, married to a tribal member, who farmed along the Sprague and in his spare time was a vigorous preacher in the Assembly of God Church.

Indians from other reservations, also married to Klamath, provided specialized leadership. One was prominent in the affairs of

3:Stern E-4,5 (1949-1957) 1965 NR 10 Klamath NR 10

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rigidity, and while its members freely attended the services of other sects, they were selective in admitting non-Klamath to their worship. It was finally upon the issue of its Indian character that the church was riven. The immediate circumstance was the effort of the "Annie Lee" faction to introduce the Bible into the ritual. A stout minority of the members refused to allow this, observing, in the words of one member, "The Indian has his religion: God speaks to him through the 'shakes.' The white man hasn't got them; he has to use the Bible." The contest soon came to litigation, during which the conservatives held services in private dwellings, while their rivals occupied the church building. Some years later, while the issue dragged on, a fire destroyed the structure; but the "Annie Lee" faction possessed sufficient vigor to rebuild it. Increasingly, that group had been gravitating toward the Four Square Gospel; and when the church was rebuilt it came to be used jointly with another fundamentalist sect.

Thus, even the maintenance of an "Indian" religion, objectively syncretic in form and content, is sought by a state charter of incorporation and internal disputes are placed before the courts for decision. Moreover, its growth parallels the revivalistic movement of fundamentalist sects upon the West Coast; it vies with them for members; and its destiny is finally interwoven with theirs. Any theory that sees in the growth of such a religion a reaction of the Klamath people to pressures of the time must consider that special history and account for the parallel growth of other sects among non-Klamath at about the same time. For the Klamath, those sects must be regarded alternant to the Shaker faith in providing opportunities for expression. In assessing the features that attracted converts, the appeal of familiar Christian practice, known from earlier Methodist services, must be reckoned, as well as those features which were strictly aboriginal. For some, indeed, the identity of the church as Indian may have been compelling, as fostering an image of independence from the almost overwhelming presence of American culture.

To evaluate the impact of the Shaker Church from the members involved is hazardous. Although only a handful of individuals became exclusively committed to the Shaker way, its impact extended far beyond their ranks. At the same time, the majority

7:Gatschet E-4,5 (1877) 1890 NR10 Klamath NR10

E-UKSHIKÍSHAM MÁKLAKSAM NÉ-ULAKS.

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[115]

LEGAL CUSTOMS OF THE KLAMATH LAKE PEOPLE.

GIVEN BY SUBCHIEF DAVE HILL IN THE KLAMATH LAKE DIALECT.

I.

E-ukskni nā'd tchí tchía gitá: P'lú lakí tútsayēnini, nû'ds Dave
Lake-people we then live here: Blow is chief general, and I Dave
Hill lakí P'lúash tapt'tan, Lánk-Tchān Dávish tapt'tan, tchē'k tchish Link
Hill as chief to Blow second, Long John Dave after, then too Link
River Jack Lánk-Tchánash tapt'tan, Lílu ts.
River Jack Long John after, and Lilu.
Pit River Charley Móatuasham lakí E-ukshť.
Pit River Charley of Pit River people is the chief as the Lake.
Ben Littlejohn lálaki, Skóntchiesh lakí Yainakshíshām máklaksam.
Ben (and) Littlejohn are the chiefs, Skóntchish is (sub-) chief of the Yáneks people.
Johnson lakí Moadoknísham Yaínakshi. George Kuatt'lak ts Módokni
Johnson is chief of Modocs as Yáneks. George Kuatlak also is Modoc
lakí tapt'tan Jóhnsonash.
chief after Johnson.
Tcháktot Sátam lakí.
Tcháktot of Snake Indians is chief.

II.

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692
[682]
9 Nánuk laláki Ă'-uksi nā'dsant shiû'lgishtat tsí sa hémkank:
All the chiefs on Klamath Lake on one and same reservation thus they speak:
Ká-i ł shlí-uapk shash: ksaggayuapká m's nł; ká-i ł palluápk sas
Not you shall shoot each other: would hang you I; not you sadness each other's
[684] snáwedsh: spûlhi-uapká m's nł, hă' ł sas pálluapk. Ká-i ł wátsam tchť'k-
wives: would imprison you I, if you them sadness. Not you a horse shall
12 luapk wānntkť'sham; hă'doks ł tchíkluapk, spulhi-uapká m's nł. Ká-i ł
[685] ride of another man; but if you should ride, would imprison you I. Not you
pálluapk sas nánuktua, hă'doks ł pálluapk sas spûlhi-uápka m's nł.
shall steal from anything, for if you should steal from each other would imprison you I.
(Nánuktua ká-i ł pálluapk; hă'doks ł yekă'-uapk nă'-ulaks, hunkantť'
(Nothing you must steal; for if you should break the laws, thereat
[689] 15 m's nł shetcháktanuapk.) Hă'doks ł snawă'dsh Bóshtinash shă'tolakuapk,
at you I would get angry.) If you, as a female, with a white man should sleep,
któtchkuapka m's nł. Hă'doks ł hă'szalp'luapk nánuktua shéshatuish m'na,
will cut off hair to you I. If you should have returned the whole marriage fee his,
to yourself

*539 sχóktnank i häsχálp'luapk, hunkantchä' mîsh nî ḵá-i né-ulakuapk: waké-
622 paying you should reobtain it, on account of that you I not shall try; per-
692 anhua spû'lhi-uapk. Hä î híshuaksh pálluapk snawä'dshash, hä'doks
[684] hape (I) will imprison. If you, as a married man, seduce a married woman, if
î ná-änt snawä'dshash shetō'lakuapk, nä-ulakuapká m's nî. Hä î ḵî'- 3
you another with wife cohabit, shall punish you I. If you should
uapka ts, nä'-ulakuapka m's nî.
lie also, would punish you I.

[687] Hä'toks î nä's lúlûksaluapk ḵ'lä'kapksh, mû' mîsh nî nä'-ulakuapk.
And if you a person should cremate, who is dead, heavily you I shall punish.

[683] Hä' î kiúks tsîs táwi-uapk, mû' mîsh nî nä'-ulakuapk. Hä î shishókuapk 6
If you as a conjurer should bewitch, hard you I shall chastise. If you have a fight

[593] illí-uapka m's nánukäns; hä î snawä'dsh mî sissókuapk, ilhî'-uapka m's
I will look up all of ye; if you (and) wife your should fight, will look up you
nî lápuk sumseálĕmamks. Hä î shuhánk-sitk sissókuapk, lápuk mîsh nî
I both married folks. If you evenly whip each other, both of ye I
nä'-ulakuapk; hä'toks snä'wedsh î mî udópkuapk, tchúi mîsh ḵá-i sekák- 9
will punish; but if wife you your beat, and to you not returns
tsuapk hûk snáwädsh, ḵá-i nî nä'-ulakuapk snawä'dshash, mî'sh nî hissuák-
blows the wife, not I will punish the wife, you I, the hus-
shash spû'lhi-uapk. Hä î tuánksî wudsháyuapk hû'nkst, mî'sh nî mû'ak
band, will imprison. If you anywhere bruise her, you I more heavily
nä'-ulakuapk; hä'toks laḵí û'dopkuapk snawä'dsh m'na, snäkĕluápka nî. 12
shall punish; but if a chief bruises wife his, shall remove (him) I.

[683] Hä'toks î hî'hashuaksh shishókuapk, lápuk mîsh nî ilhí-uapk. Hä'toks
If you with men should fight, both of ye I will look up. If
[685] î shnä'lχuapk látchash mû' mish nî nä'-ulakuapk.
you set on fire a lodge hard you I will chastise.

Hä laḵí shishókuapk humáshtak nî shnäkĕlui-uápka; hä' tchik laḵí 15
If a chief starts a fight, in the same manner I shall remove (him); if a chief
húntsak a máḵlaksas shishókuapk, lápĕni, ndánni, tánknî shishókuapk,
for no reason people should beat, twice, thrice, many times should beat,
tánkt nî snä'kĕlui-uapka nî. Hä' tchik î'-alhîsh tchîsh ḵúi gî'uapk, shnä-
then I shall remove (him) I. If a guardian wrong does, shall
kĕluí-uapka nî; hä nánuktua ḵúi gî'uapka, tánkt nî shnäkĕlui-uápkan 18
remove (him) I; if in everything wrong does (he), then I will remove (I)
î'-alhîshash; hä'toks î'alhish tíds, nanuktuánta tídsh gî'uapk, ḵá-i nî shnä-
the watchman; but if watchman well, all through well shall act, not I will
kĕluí-uapk. Laḵiásh tchîsh tídsh gîsht ḵá-i nî shnäkĕlúi-uapk; hä Bóshtin
remove (him). A chief also doing his duty not I will remove; if white-man-
yálank nä'-ulapkuapk, tî'dsh hûnk gî'uapk, ḵá-i nî hûnk wutódshanuapk. 21
alike he deals, right he shall act, not I him will cast away.

[689] Ḵá-i î hussî'nuapk; hä'toks î hussî'nuapk nû hû'nk î'-amnuapk î'χaks
Not you must run horse-races; but if you run horse-races I the will take away gain
mî. Tchí laḵí nä'-ulχa.
your. So the chief orders.

*539 622 692 [684]

Hä' î k̲ä'liak híshuaksh ná-änds sätólakuapk, hû'k tchîsh híssuaks
If you, not having a husband, with another should cohabit, this also man

k̲ä'liak snáwädsh, spû'lhi-uapka nû kä'lish snáwedsh. Hä hû'ksa heshtó-
(is) without a wife, shall imprison I the unmarried (man). If they should live

3 lakuapk, hû'nk nî túmĕnuk nä'-ulakuapk spúlhi-uapka nu hishuáks hû'nk.
in concubinage, of it I hearing will punish (and) will imprison I man that.

Tchî' Ă'-ukskní laláḵi nä'-ulĕka tchî' huk käílatat m'nálam; tsúi k̲î'llitk
So the Klamath Lake chiefs order so they in district their; and severe (is)

nä'-ulaks laláḵiam.
the law of the chiefs.

[585] 6 Hä'toks î sû'msealstka gíuapk sî-î'huapk î lápuk, snawä'dshash
And if you on the point of marriage should be and should agree you both, female

hissuáksh tchî'sh, tsúi î gépkuapk laḵiámksi; tsúi mî'sh laḵí snû'mpsä-
male also, then you must come to chief's house; and you the chief will unite in

aluapk, tû'nep î n's tála skû'ktanuapk hû'nk pîl mû'yäns pî'la láḵiash;
wedlock, five you to me dollars shall pay only to the principal only chief;

9 hä'toks î yúalks, tsî hû'k î ndán tála, wakiánhua lä'p tála skû'ktanuapk.
but if you (are) poor, then you three dollars, may be two dollars have to pay.

Hä î yuálks tsi gíuapk súmsä-aluapk, gä't î n's skû'ktanuapk. Häts î
If you poor should be (and) intend to marry, that you to me have to pay. And if you

skû'ktish hámĕniuk tû'ma wátch gitk, túnîp î skû'ktanuapk snawä'dshash;
to pay want of many horses possessed, five (horses) you can give in payment for the wife;

12 hä'toks yúalks tsî î lápi wátch skû'ktanuapk, wakiánhua ndán wátch,
and if poor you two horses can pay, or perhaps three horses,

tû'ma-kans wátch gî'tkiug.
many horses when having.

[586] Hä' tchi m's snawä'dsh gû'skuapk, k̲á-i î wátch shnû'kp'li-uapk
And if you (your) wife should leave, not you the horses can take back

15 k̲á-i tch snawä'dsh hûk wátch spunî'-uapka m'sh; î pî'l î hissuáksh pîl
and not (your) wife a horse need transfer to you; you alone, you husband only

shä'wanuapk snawä'dshash gû'shkank.
must give (them) (your) wife when leaving.

[595] K̲á-i î láp snawä'dsaluapk; nä'sak î snawä'dslank gíuapk; hä'toks î
Not you two wives shall marry; one only you marrying must live; but if you

[684] 18 láp snawä'dsaluapk, nä'-ulakuapka m'sh. Hä' tchîk wéwanuish lä'pi gíug
two wives marry, shall punish (I) you. If the wives double for being

hishtcháktanuapk, tánkt mî'sh nî skuyû'shkuapk snáwädsh nä'sh; tsûshnî'
should quarrel, then from you I shall divorce wife one; forever

m'sh nî skuyû'shkuapk, k̲á-i î tatá mbushäálp'luapk. Hä'toks î mbuseál-
from you I shall sever her, not you ever can marry her again. And if you associate again

[586] 21 p'luapk spûlhi-uapká m'sh nî. Häts nä'dsiak mî snawä'ds tsû'ssak î
(with her) shall imprison you I. And if monogamic your with wife constantly you

hishtcháktanuapk, tánkt mîsh nî skuyû'shkuapk, ampkáak î hishû'kat;
should quarrel, finally from you I shall separate (her), or else ye may kill each other;

*539 622 692 [586] hû'masht mish ni giug skuyû'shkuapk. Hä ni skuyû'shkuapka m'sh,
therefore ye I will separate. If I should separate (her) from you,
tsû'shnî m'sh ni skuvû'shkuapk.
forever from you I shall divorce (her).

Ká-i mish ni hû'nk kt'tgik; nánuktuanta káktak pîla m's n hû'nk hém- 3
Not you I that to tell lies about everything to tell the truth alone to you I that to
told;
kanktgîk; nä'-ulakt gi'tki t snawä'dshash tchî'sh káktak ptl. Ká-i n
tell said; to observe the laws you wife also to tell the truth only. Not I
hû'nk gi'tkik m's pîla, hihashuákshash tchîsh nánukänsh.
this to do tell to you only, (but) to men too all (others.)

III.

[689] Snáwedsh tchîk shû'ldshash shetólza, tsúi nát któktatska; at hûnk 6
A female (if) with a soldier copulates, then we cut her hair off; she
yakä'wa nä'-ulaka, ká-i hû'nk tû'mëna shunû'kanksh nálam lalákiam.
broke the law, not she listens to the behests of our chiefs.
Tchúi tchîk titátna heshzálpëli sésatuish m'nálam, tsúi szõ'ktnank tchä'k
Also sometimes she reobtains the price paid (for her) to them, and by paying
héshszalpëli. Tsúi snawä'dsh tchîsh násh híshuaksh wutódshîsh m'na pä'n 9
she reobtains it. And wife one husband who repudiated his again
hû'nk snúkp'la, tsúi nä'-ulëkan titátnan hû'masht-gîsht shnû'kp'lisht lä'p
her takes up, then chastises I (him) sometimes I because he took her back for two
sháppash spû'lhî, titátnatóks ni ndán sháppash, títatna tchín násh sháppash
months imprison, but sometimes I for three months, at times and I for one month
spû'lhî. Tsúi tch' hishtchákta hû'k kat lalápa wä'wans gîtk; tsúi tsin nä'- 12
imprison (him). And quarrel they who two wives have; and thus I se-
ulka skuyû'shkan. Ká-i ni nä'-ulëza, sguyushkuyá nî; gä'tak. Títatna
der (and) separate (them) I. No more I try (them) in court, separate just I; that's the end of it. Sometimes
tch pálla shash ná-änts hihassuáksas snáwädsh, tchúi ni nä'-ulkan ndán
also sedness (them) other married men a female, then I try (her) I (and) for three
sáppash spû'lhi. 15
months imprison.

[683] [593] Tchúi shishóka títatna, tchúi náyäns wudsáya; hû'nkst ni násh sû'ndë
And they fight sometimes, and others they injure; him I one week
spû'lhi, kát sas hû'k wudsháya. Títatna tch shishóka shipapëlánkstant hak,
imprison, who them has whipped. At times also they have fights among each other only,
ká-i shû'tka, sissukúya hak; tsúi ni né-ulëka hû'nkiasht kákat hûk sissóka. 18
not injure, but scuffle merely; then I try those who had the row.
Láp sû'ndin lapukáyäns ilht'. Títatna udû'pka hissuáksh snawä'dsh m'na;
For two weeks I both parties look up. Sometimes whips a husband wife his;
hû'nks ni hissuáksas spû'lhi ndán sû'ndë; hä káa udópkpakuapk snáwedsh
that I husband lock up for three weeks; if roughly he should whip wife
m'na, hû'masht n'unk giug ndán súndë spû'lhi. Títatna tch snáwädsh 21
his, on that account I him for three (others) weeks imprison. Sometimes also a wife

hishuáksh m'nä wudópka, tsúi nî snawä'dshash hû'nk nä'-ulχ, ká-i hû'nk
husband hers whips, then I wife that punish, not the
hishuákshash, láp súndē.
husband, for two weeks.

Tsúi tchik kíuks tchî'sh títatna tawí shash, tsúi hûk k'lēká tawí'sh.
Then a conjurer also at times bewitches them, and dies the bewitched one.

Tsúi nî nä'-ulχa, tsúi tû'nip sháppash spû'lhi-síukst; tsúi tchik wátch nísh
Then I try (him), and for five months imprison for manslaughter; and (if) horses to me

sχókta tû'nip, tsúi nî ká-i spû'lhit sχoktî'sht nísh. Tsúi tch lakí ts ktû'pka
he pays five, then I not may imprison (him), he having paid me. And (if) a chief beats

m'na snáwädsh, tsúi nî snä'kēlua; gä'tak lakí gî hûk.
his wife, then I remove (him); no longer chief remains he.

NOTES.

58–62. The legal practices, regulations, and ordinances given here by a subchief of the Klamath Lake tribe are observed by all the chiefs, and are apparently fashioned after American models. The principle which seems to guide most of the judicial decisions of the chiefs, is given in one (59, 20. 21) of these regulations: "If a chief makes law like white people, that will be right."* This article is composed of three parts:

Part I. List of the chiefs acting as judges on the reservation in 1877.

Part II. Legal customs governing the Klamath Lake people.

Part III. Instances of application of these legal customs; amount of fines, terms of imprisonment, etc. These are the "*novellæ*" of Klamath legislation.

58, 1–3. P'lú, Lilu, and some other headmen mentioned here have signed the treaty of Oct. 14, 1864.

58, 4. Móatuash. There are only two Pit River *families* living on the whole reservation.

58, 8. Tcháktot belongs to the Yahúskin tribe of Snake Indians. Cf. Ind. Aff. Report 1873, p. 324.

58, 10 etc. The future tense employed in these behests, regulations and defenses recalls the French future used in an impressive manner instead of the imperative: *tu ne tueras point, tu ne déroberas point.*

58, 10. shlí-uapk shash. The pronoun shash has here almost the force of a reciprocal pronoun, for the meaning of the sentence is: "do not shoot at people of your own tribe." The same is true of sas in pallnápk sas, 58, 10; 58, 13 (twice); pálla shash, 61, 14.

58, 10. ksaggayuapkámsni is pronounced as one word, as the removal of the accent from the syllable -nápk demonstrates; and so in many of the following verbs standing in the future tense. For the sake of clearness, I have preferred to resolve these forms graphically into their component elements.

58, 11. wátsam, etc. The possessive wátsam stands here instead of the instrumental case watsátka through attraction from wännikísham. Tchíkla here means to ride away on another's horse, the horse being missed by his owner.

* Dave Hill introduces himself in the first person as chief; but many of these decisions can be given by the headchief only, not by any of the subchiefs, to whose number Dave Hill belonged. The Modocs at Yáneks claim to observe these regulations; the Snake Indians do not.

7:Gatschet E-4,5 (1877) 1890 NR10 Klamath NR10

58, 15. shetcháktanuapk stands for the more common form: shitcháktanuapk.

58, 16. nánuktua shéshatuish m'na: "all what your husband has transferred to your parents to obtain your hand"; m'na stands for hishuáksham. Cf. 61, 8.

59, 7. mish, *you, to you*, is often used in this article for málash, málsh, *ye, to ye*, in allocutions to two or more persons. This is a way of expressing what may be called the "inclusive plural of the second person". This mode of speaking is observed in m's lápuk, 59, 7; lápuk mish, 59, 7. In the same manner 1 stands for át, 59, 8: 1 sissókuapk, if ye whip each other; also 60, 22.

59, 9. 1 ml stands for mish ml.

59, 17. hă kúi gi'uapk: if he should fail to do his duty; 59, 19. hă tídsh gi'uapk: if he does his duty well; nanuktnánta: in every respect.

59, 22. 1'yaks mí: what you may win by betting on the horses engaged in the race.

60, 2. kă'lish is the objective case of kă'liak, kéliak, "not having", the simple form of which, without -ak, would be kă'li or kă'liu (kă'li hû).

60, 11. túma wátch gitk. The horses have, of course, to be transferred to the parents of the bride and not to any of the chiefs.

60, 12. wátch. The horses owned by the Klamath Lake and Modoc people are valued from 20 to 25 dollars each; they descend from the hardy, enduring race of Cayuse ponies, and were originally obtained by bartering commodities with the Columbia River Indians at the Dalles, Oregon.

60, 15. wátch spuní'-uapka; wátch refers to *one* horse only, for the verb spuní', to transfer, is used of one (living) object only; shăwána is: to give *many* objects. "Not even one horse your wife has to give to you, if she leaves you; but if you leave her, you must give her several."

60, 17. láp snawă'dshla. Polygamy was abolished by the headmen of the tribe shortly after the establishment of the reservation, and this ruling was one of the greatest benefits ever conferred upon that tribe by the progress of civilization. But those who had several wives then were not compelled to dismiss all but one, and so in 1877 two or three men were still polygamists. The irascible and excitable disposition of the Modoc and Klamath females must have produced many chin-music intermezzos with their husbands at the time when polygamy was predominant.

61, 3. Ká-i mi'sh etc. In this paragraph, in: ki'tgik, káktak, hémkanktgik, gitkik, the terminal k contains the abbreviated gi, which joined to the foregoing nû, n means *I said*. The construction runs as follows: Hû'nk ni gi ká-i mish ki'tgi; nánuktuanta káktak gi pila m's n hû'nk hémkanktki gi; nă'-ulakt gi'tki 1 snawă'dshash tchi'sh káktak gi pil. Ká-i etc.

61, 6. tchik. This particle does not mean *if*, but cannot be rendered *here* (and below) with a more appropriate word. It is identical with tchĕk, *then*. A subordinate clause is here expressed by a co-ordinate one. Cf. 61, 9. 10. 12. 62, 4.

61, 6. któktatska: "we clip their hair in every instance", is the distributive form of któtchka, któtaka, occurring in 58, 16.

61, 9. Tsúi etc. This inverted sentence has to be construed as follows: Tsúi tchisnásh híshuaksh wntódshish snawă'dsh m'na pă'n hû'nk snúkp'la, tsúi nă'-nlĕkan etc.

7:Gatschet E-4,5 (1877) 1890 NR10 Klamath NR10

77, 1. The name Púl is pronounced in very different ways, and most people think it is the English name Ball; Póluk is Pú'l hû'k; tchía, "lived", would be preferable to t'shín in this connection.

77, 2. 3. kä'tsa, kétsa properly means to cast away; here: to abandon, leave; almost identical with wutódsna occurring below, 78, 2.

77, 4. säwána sas: he did not give many horses for her to her parents.

78, 8. púllank sas. This shash properly refers to Pámpi and his family, for Púl's wife took the dug-out canoe of Pámpi and rowed with it to the soldiers. This was in the northeastern part of Upper Klamath Lake, and occurred in the winter of 1876–'77.

78, 13. É-ustat is the location of the old agency buildings at Kohásht, in northeast corner of Upper Klamath Lake.

78, 14. hí'-i. On that occasion Ball left his wagon in the midst of the woods; hi, hí-i means "on the ground".

78, 15. nä'ulχa sha pä'n. About the middle of September 1877 a strong escort of Indians brought Ball and his wife to the "law-house" at the Klamath agency to be tried by the chiefs. A delay of several days occurred before he was confronted with the judges, and during the time he was imprisoned at the "skúkum-house", a strong log cabin at the agency serving as jail. He is still a very young man, and on being brought there he was allowed to ride on horseback with a rifle on his shoulders. His father is an Indian from the Spokane tribe, and Spúkăn is his name.

78, 16. sχókta, to pay a fine; to be fined (by the chiefs). See: "Legal Customs", 82, 5.

GAMES OF THE KLAMATH LAKE PEOPLE.

OBTAINED IN THE KLAMATH LAKE DIALECT FROM MINNIE FROBEN.

I.

Ê-ukshikni shákĕluk sht-t'χaga yámnash, wátch, skútash tchish.
The Lake people in gambling win from each other beads, horses, blankets also.

Vû'nip shulshéshlank; láp mû'mĕni, sχû'tash tchish lápi ndshekáne.
With four (sticks) they play the stick-game; (there are) two thick (sticks). skin-covered sticks also two slender.

Ndshékansh sha sχétchashtka shlín, mû'mĕnish toksh a yû'shakĕnank shlín; vû'ish sha klátchnank shlín, tχopowátka tch lénank shlín. Wû'ishtka
At the slender (sticks) they with index and middle finger guess, at the thick (ones) however (they) with index finger guess; at the vûish they moving hand sideways guess, with the thumb also making a side move they guess at. By the vûish

toks sha nä'shak kshē'sh wí-uka; sχétchashtka sha láp wí-uka kshē'sh,
they only one counting-stick (one) win; with index and middle finger they two win counting-sticks,

yû'shχish spélshisht. Tchúi sa kĕléwi udúiwisham t'χaguk nánuk.
the index having put forward. Then they step, from the losers when they have won all (stakes).